

By: Carona

S.B. No. 673

A BILL TO BE ENTITLED

AN ACT

relating to the requirements for elevators, escalators, and related equipment; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 754.011, Health and Safety Code, is amended to read as follows:

Sec. 754.011. DEFINITIONS. In this chapter [~~subchapter~~]:

(1) "Acceptance inspection" means an inspection performed at the completion of the initial installation or alteration of equipment and in accordance with the applicable ASME Code A17.1.

(2) "Accident" means an event involving equipment that results in death or serious bodily injury to a person.

(3) "Alteration" means a change in [~~or modernization of~~] existing equipment. The term does not include testing, maintenance, repair, replacement, or a cosmetic change that does not affect the operational safety of the equipment or diminish the safety of the equipment below the level required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, at the time of alteration.

(4) "Annual inspection" means an inspection of equipment performed in a 12-month period in accordance with the applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21. The term includes an acceptance inspection performed

1 within that period.

2 (5) "ASCE" means the American Society of Civil  
3 Engineers.

4 (6) "ASCE Code 21" means the American Society of Civil  
5 Engineers Code 21 for people movers operated by cables, as it  
6 existed on January 1, 2004, or any subsequent revision of that code  
7 adopted after a review by the commission, as required by law.

8 (7) "ASME" means the American Society of Mechanical  
9 Engineers.

10 (8) [~~(6)~~] "ASME Code A17.1" means the American Society  
11 of Mechanical Engineers Safety Code for Elevators and Escalators  
12 (Bi-national standard with CSA B44-2007), ASME A17.1/CSA-B44, as it  
13 existed on January 1, 2004, or any subsequent revision of that code  
14 adopted after a review by the commission, as required by law.

15 (9) [~~(6-a)~~] ~~"Executive director" means the executive~~  
16 ~~director of the department.~~

17 [~~(7)~~] "ASME Code A17.3" means the 2002 American  
18 Society of Mechanical Engineers Safety Code for Elevators and  
19 Escalators A17.3.

20 (10) [~~(8)~~] "ASME Code A18.1" means the American  
21 Society of Mechanical Engineers Safety Code for Platform Lifts and  
22 Stairway Chairlifts A18.1, as it existed on January 1, 2004, or any  
23 subsequent revision of that code adopted after a review by the  
24 commission, as required by law.

25 (11) [~~(9)~~] "Board" means the elevator advisory board.

26 (12) [~~(10)~~] "Commission" means the Texas Commission  
27 of Licensing and Regulation.

1           (13) [~~(12)~~] "Contractor" means a person engaged in the  
2 installation, alteration, testing, repair, or maintenance of  
3 equipment. The term does not include an employee of a contractor or  
4 a person engaged in cleaning or any other work performed on  
5 equipment that does not affect the operational safety of the  
6 equipment or diminish the safety of the equipment below the level  
7 required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1,  
8 or ASCE Code 21, as applicable.

9           (14) [~~(13)~~] "Department" means the Texas Department  
10 of Licensing and Regulation.

11           (15) [~~(14)~~] "Equipment" means an elevator, escalator,  
12 chairlift, platform lift, automated people mover operated by  
13 cables, or moving sidewalk, or related equipment.

14           (16) "Executive director" means the executive  
15 director of the department.

16           (17) [~~(15)~~] "Industrial facility" means a facility to  
17 which access is primarily limited to employees or contractors  
18 working in that facility.

19           (18) "Inspector" means a person engaged in the  
20 inspection and witnessing of the tests specified in the adopted  
21 standards of ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or  
22 ASCE Code 21, as applicable, to determine compliance with those  
23 standards.

24           (19) "Owner" means a person, company, corporation,  
25 authority, commission, board, governmental entity, institution, or  
26 other entity that holds title to a building or facility in which  
27 equipment regulated by this chapter is located.

1           (20) [~~(16)~~] "Qualified historic building or facility"  
2 means a building or facility that is:

3                   (A) listed in or eligible for listing in the  
4 National Register of Historic Places; or

5                   (B) designated as a Recorded Texas Historic  
6 Landmark or State Archeological Landmark.

7           (21) [~~(17)~~] "Related equipment" means:

8                   (A) automatic equipment that is used to move a  
9 person in a manner that is similar to that of an elevator, an  
10 escalator, a chairlift, a platform lift, an automated people mover  
11 operated by cables, or a moving sidewalk; and

12                   (B) hoistways, pits, and machine rooms for  
13 equipment.

14           (22) [~~(18)~~] "Serious bodily injury" means a major  
15 impairment to bodily function or serious dysfunction of any bodily  
16 organ or part requiring medical attention.

17           (23) [~~(19)~~] "Unit of equipment" means one elevator,  
18 escalator, chairlift, platform lift, automated people mover  
19 operated by cables, or moving sidewalk, or related equipment.

20           SECTION 2. Section 754.0111, Health and Safety Code, is  
21 amended to read as follows:

22           Sec. 754.0111. EXEMPTIONS [~~EXEMPTION~~]. (a) This chapter  
23 [~~subchapter~~] does not apply to equipment in a private building for a  
24 labor union, trade association, private club, or charitable  
25 organization that has two or fewer floors.

26           (b) This chapter [~~subchapter~~] does not apply to an elevator  
27 located in a single-family dwelling, except as provided by Section

1 754.0141.

2 (c) This chapter does not apply to equipment located in a  
3 building owned and operated by the federal government.

4 (d) This chapter does not apply to equipment in an  
5 industrial facility, or in a grain silo, radio antenna, bridge  
6 tower, underground facility, or dam, to which access is limited  
7 primarily to employees of or working in that facility or structure.

8 SECTION 3. Subsections (a) and (d), Section 754.012, Health  
9 and Safety Code, are amended to read as follows:

10 (a) The elevator advisory board is composed of nine members  
11 appointed by the presiding officer of the commission, with the  
12 commission's approval, as follows:

13 (1) a representative of the insurance industry or a  
14 registered ~~[certified]~~ elevator inspector;

15 (2) a representative of equipment constructors;

16 (3) a representative of owners or managers of a  
17 building having fewer than six stories and having equipment;

18 (4) a representative of owners or managers of a  
19 building having six stories or more and having equipment;

20 (5) a representative of independent equipment  
21 maintenance companies;

22 (6) a representative of equipment manufacturers;

23 (7) a licensed or registered engineer or architect;

24 (8) a public member; and

25 (9) a public member with a physical disability.

26 (d) The board shall meet as determined by the executive  
27 director or by the presiding officer of the commission ~~[at least~~

1 ~~twice each calendar year~~].

2 SECTION 4. Section 754.013, Health and Safety Code, is  
3 amended to read as follows:

4 Sec. 754.013. BOARD DUTIES. To protect public safety and to  
5 identify and correct potential hazards, the board shall advise the  
6 commission on:

7 (1) the adoption of appropriate standards for the  
8 installation, maintenance, alteration, operation, testing, and  
9 inspection of equipment;

10 (2) the status of equipment used by the public in this  
11 state;

12 (3) sources of information relating to equipment  
13 safety;

14 (4) public awareness programs related to elevator  
15 safety, including programs for sellers and buyers of single-family  
16 dwellings with elevators, chairlifts, or platform lifts; and

17 (5) any other matter considered relevant by the  
18 commission.

19 SECTION 5. Section 754.014, Health and Safety Code, is  
20 amended by amending Subsections (a), (b), (c), (d), (e), (h), (j),  
21 (k), (l), and (m) and adding Subsection (h-1) to read as follows:

22 (a) The commission by rule shall adopt standards for the  
23 installation, maintenance, alteration, operation, testing, and  
24 inspection of equipment used by the public in:

25 (1) buildings owned or operated by the state, a  
26 state-owned institution or agency, or a political subdivision of  
27 the state; and

1           (2) buildings that contain equipment that is open to  
2 the general public, including a hotel, motel, apartment house,  
3 boardinghouse, church, office building, shopping center, or other  
4 commercial establishment.

5           (b) Standards adopted under [~~by the~~] commission rules may  
6 not contain requirements in addition to the requirements in the  
7 ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21.  
8 The standards must allow alteration of existing equipment if the  
9 alteration does not diminish the safety of the equipment below the  
10 level required by this chapter [~~subchapter~~] at the time of  
11 alteration.

12           (c) Standards adopted under [~~by the~~] commission rules must  
13 require equipment to comply with the installation requirements of  
14 the ASME Code A17.1, ASME Code A18.1, or ASCE Code 21 that was in  
15 effect and applicable on the date of installation of the equipment.

16           (d) Standards adopted under [~~by the~~] commission rules must  
17 require equipment to comply with the installation requirements of  
18 the ASME Code A17.3 that contains minimum safety standards for all  
19 equipment, regardless of the date of installation.

20           (e) The executive director may [~~shall~~] grant a delay for  
21 compliance with the codes and adopted standards [~~applicable ASME~~  
22 ~~Code A17.1, ASME Code A17.3, or ASME Code A18.1~~] until a specified  
23 time if the executive director determines that the noncompliance  
24 does not constitute a significant threat to passenger or worker  
25 safety [~~compliance is not readily achievable, as that phrase is~~  
26 ~~defined in the Americans with Disabilities Act (42 U.S.C. Section~~  
27 ~~12101 et seq.), or regulations adopted under that Act]. The~~

1 accumulated total time of all delays for a specific noncompliant  
2 condition may not exceed three years, except as determined  
3 ~~[provided] by [Subsection (f) or as allowed in the discretion of]~~  
4 the executive director.

5 (h) The executive director shall grant a waiver of  
6 compliance if the noncompliance resulted from compliance with a  
7 municipal equipment construction code at the time of the original  
8 installation and the noncompliance does not pose imminent and  
9 significant danger.

10 (h-1) The executive director may grant a waiver of  
11 compliance with the firefighter's service provisions of the ASME  
12 Code A17.1 or the ASME Code A17.3 in an elevator that exclusively  
13 serves a vehicle parking garage in a building that:

- 14 (1) is used only for parking;  
15 (2) is constructed of noncombustible materials; and  
16 (3) is not greater than 75 feet in height.

17 (j) One application for a waiver or delay may contain all  
18 requests related to a unit of equipment. ~~[A delay may not be~~  
19 ~~granted indefinitely but must be granted for a specified time not to~~  
20 ~~exceed three years.]~~

21 (k) For purposes of determining the applicable standards  
22 and codes under this chapter ~~[section]~~, the date of installation or  
23 alteration of equipment is the date that the owner of the real  
24 property entered into a contract for the installation or alteration  
25 of the equipment. If that date cannot be established, the date of  
26 installation or alteration is the date of issuance of the municipal  
27 building permit under which the equipment was installed or altered

1 or, if a municipal building permit was not issued, the date that  
2 electrical consumption began for the construction of the building  
3 in which the equipment was installed.

4 (l) Standards adopted under [~~by the~~] commission rules may  
5 include and be guided by revised versions of ASME Code A17.1, ASME  
6 Code A18.1, and ASCE Code 21, as appropriate.

7 (m) The executive director may on application of a person  
8 and in accordance with procedures adopted under [~~by the~~] commission  
9 rules, grant a variance to allow the installation of new technology  
10 if the new component, system, subsystem, function, or device is  
11 equivalent or superior to the standards adopted under [~~by the~~]  
12 commission rules.

13 SECTION 6. Subsections (a), (b), (c), (e), and (f), Section  
14 754.0141, Health and Safety Code, are amended to read as follows:

15 (a) Elevators, chairlifts, or platform lifts installed in a  
16 single-family dwelling on or after January 1, 2004, must comply  
17 with the ASME Code A17.1 or A18.1, as applicable, and must be  
18 inspected by a registered elevator [~~OEI-1 certified~~] inspector  
19 after the installation is complete. The inspector shall provide  
20 the dwelling owner a copy of the inspection report.

21 (b) The commission shall [~~before January 1, 2004,~~] adopt  
22 rules containing minimum safety standards that must be used by  
23 registered elevator [~~OEI-1 certified~~] inspectors when inspecting  
24 elevators, chairlifts, and platform lifts installed in  
25 single-family dwellings.

26 (c) A municipality may withhold a certificate of occupancy  
27 for a dwelling or for the installation of the elevator or chairlift

1 until the owner provides a copy of the [~~QEI-1~~] inspection report to  
2 the municipality.

3 (e) On completing installation of equipment in a  
4 single-family dwelling, a contractor shall provide the dwelling  
5 owner with relevant information, in writing, about use, safety, and  
6 maintenance of the equipment, including the advisability of having  
7 the equipment periodically and timely inspected by a registered  
8 elevator [~~QEI-1-certified~~] inspector.

9 (f) An inspection by a registered elevator [~~QEI-1~~  
10 ~~certified~~] inspector of equipment in a single-family dwelling may  
11 be performed only at the request and with the consent of the owner.  
12 The owner of a single-family dwelling is not subject to Section  
13 754.0231, 754.0232, 754.0233, 754.0234, or 754.0235 [~~754.022,~~  
14 ~~754.023, or 754.024~~].

15 SECTION 7. Section 754.015, Health and Safety Code, is  
16 amended to read as follows:

17 Sec. 754.015. RULES. (a) The commission by rule shall  
18 provide for:

19 (1) an annual inspection and certification of the  
20 equipment covered by standards adopted under this chapter  
21 [~~subchapter~~];

22 (2) enforcement of those standards;

23 (3) registration, including certification, of  
24 elevator [~~qualified~~] inspectors [~~and contractors~~];

25 (4) registration of contractors;

26 (5) the procedures by which a certificate of  
27 compliance is issued and displayed [~~the form of inspection~~

- 1 ~~documents, contractor reports, and certificates of compliance];~~  
2           (6) [~~(5)~~] notification to building owners,  
3 architects, and other building industry professionals regarding  
4 the necessity of annually inspecting equipment;  
5           (7) [~~(6)~~] approval of continuing education programs  
6 for registered elevator [~~QEI-1 certified~~] inspectors;  
7           (8) [~~(7)~~] standards of conduct for individuals who are  
8 registered under this chapter [~~subchapter~~];  
9           (9) [~~(8)~~] general liability insurance as a condition  
10 of contractor registration with coverage of not less than:  
11           (A) \$1 million for each single occurrence of  
12 bodily injury or death; and  
13           (B) \$500,000 for each single occurrence of  
14 property damage;  
15           (10) [~~(9)~~] the submission and review of plans for the  
16 installation or alteration of equipment; ~~and~~  
17           (11) [~~(10)~~] continuing education requirements for  
18 renewal of contractor registration;  
19           (12) maintenance control programs, maintenance,  
20 repair, and parts manuals, and product-specific inspection,  
21 testing, and maintenance procedures;  
22           (13) the method and manner of reporting accidents and  
23 reportable conditions to the department; and  
24           (14) an owner's designation of an agent for purposes of  
25 this chapter.  
26           (b) The commission by rule may not:  
27           (1) require inspections of equipment to be made more

1 often than every 12 months, except as provided by Subsection (c); or

2 (2) require persons to post a bond or furnish  
3 insurance or to have minimum experience or education as a condition  
4 of certification or registration, except as otherwise provided by  
5 this chapter [~~;~~ ~~or~~

6 [~~(3) prohibit a QEI-1 certified inspector who is~~  
7 ~~registered with the department from inspecting equipment~~].

8 (c) The commission by rule may require a reinspection or  
9 recertification of equipment if:

10 (1) the equipment has been altered;

11 (2) the equipment [~~and~~] poses a significant threat to  
12 passenger or worker safety; or

13 (3) [~~if~~] an annual inspection report indicates an  
14 existing violation has continued longer than permitted in a delay  
15 granted by the executive director.

16 (d) The executive director may charge a reasonable fee as  
17 set by the commission for:

18 (1) registering or renewing registration of an  
19 elevator inspector;

20 (2) registering or renewing registration of a  
21 contractor;

22 (3) applying for a certificate of compliance;

23 (4) filing an inspection report as required by Section  
24 754.019(a)(3), 30 days or more after the date the report is due, for  
25 each day the report remains not filed after the date the report is  
26 due;

27 (5) submitting for review plans for the installation

1 or alteration of equipment;

2 (6) reviewing and approving continuing education  
3 providers and courses for renewal of elevator inspector and  
4 contractor registrations [~~registration~~];

5 (7) applying for a waiver, new technology variance, or  
6 delay; and

7 (8) attending a continuing education program  
8 sponsored by the department for registered elevator [~~QEI-1~~]  
9 inspectors.

10 (e) The commission by rule may require inspection reports,  
11 other documents, and fees to be filed in a manner prescribed by the  
12 department, including electronically.

13 SECTION 8. Section 754.016, Health and Safety Code, is  
14 amended to read as follows:

15 Sec. 754.016. INSPECTION REPORTS AND CERTIFICATES OF  
16 COMPLIANCE. (a) Inspection reports and certificates of  
17 compliance required under this chapter [~~subchapter~~] must cover all  
18 equipment in a building or structure appurtenant to the building,  
19 including a parking facility, that are owned by the same person or  
20 persons.

21 (b) A registered elevator [~~An~~] inspector shall issue [~~date~~  
22 ~~and sign~~] an inspection report [~~and shall issue the report~~] to the  
23 [~~building~~] owner not later than the fifth [~~10th~~] calendar day after  
24 the date of inspection in accordance with the procedures  
25 established by commission rule.

26 (c) The executive director shall issue [~~date and sign~~] a  
27 certificate of compliance [~~and shall issue the certificate~~] to the

1 ~~[building] owner. [The certificate of compliance shall state:~~

2 ~~(1) that the equipment has been inspected by a~~  
3 ~~certified inspector and found by the inspector to be in compliance,~~  
4 ~~except for any delays or waivers granted by the executive director~~  
5 ~~and stated in the certificate;~~

6 ~~(2) the date of the last inspection and the due date~~  
7 ~~for the next inspection; and~~

8 ~~(3) contact information at the department to report a~~  
9 ~~violation of this subchapter.]~~

10 (d) The commission by rule shall:

11 (1) ~~[specify what information must be contained in a~~  
12 ~~certificate of compliance;~~

13 ~~(2) describe the procedure by which a certificate of~~  
14 ~~compliance is issued;~~

15 ~~(3)]~~ require that a certificate of compliance for any  
16 equipment ~~[related to an elevator]~~ be posted in a publicly visible  
17 area of the building; and

18 (2) ~~(4)]~~ determine what constitutes a "publicly  
19 visible area" under Subdivision (1) ~~(3)]~~.

20 (e) The department shall prescribe the format and the  
21 required information contained in the inspection reports, the  
22 certificates of compliance, and other documents.

23 SECTION 9. The heading to Section 754.017, Health and  
24 Safety Code, is amended to read as follows:

25 Sec. 754.017. REGISTERED ELEVATOR ~~[CERTIFIED]~~ INSPECTORS.

26 SECTION 10. Subsections (a), (b), and (d), Section 754.017,  
27 Health and Safety Code, are amended to read as follows:

1 (a) In order to inspect equipment, an individual must:

2 (1) be registered with the department;

3 (2) attend educational programs approved by the  
4 department;

5 (3) be certified as an [~~a QEI-1~~] inspector in  
6 accordance with the rules adopted by the commission [~~by an~~  
7 ~~organization accredited by the American Society of Mechanical~~  
8 ~~Engineers~~]; [~~and~~]

9 (4) comply with the continuing education requirements  
10 established by commission rule for registration renewal; and

11 (5) pay all applicable fees.

12 (b) A person assisting a registered elevator [~~certified~~]  
13 inspector and working under the direct, on-site supervision of the  
14 inspector is not required to be registered [~~certified~~].

15 (d) A registered elevator [~~certified~~] inspector may not  
16 inspect equipment if the inspector or the inspector's employer has  
17 a financial or personal conflict of interest or the appearance of  
18 impropriety related to the inspection of that equipment [~~may not be~~  
19 ~~required to attend more than seven hours of continuing education~~  
20 ~~during each licensing period~~].

21 SECTION 11. Subsections (a) and (f), Section 754.0171,  
22 Health and Safety Code, are amended to read as follows:

23 (a) A person may not install, repair, alter, test, or  
24 maintain equipment without registering as a contractor with the  
25 department as required by this chapter [~~subchapter~~].

26 (f) Installation, repair, alteration, testing, and  
27 maintenance standards for contractors must be consistent with ASME

1 Code A17.1, ASME Code A17.3, ASME Code A18.1, and ASCE Code 21.

2 SECTION 12. Section 754.0172, Health and Safety Code, is  
3 amended to read as follows:

4 Sec. 754.0172. INSPECTION FEE. The amount charged for an  
5 inspection or the performance of an inspection of equipment under  
6 this chapter [~~subchapter~~] may not be contingent on the existence of  
7 a maintenance contract between the person performing the inspection  
8 and any other person.

9 SECTION 13. The heading to Section 754.0174, Health and  
10 Safety Code, is amended to read as follows:

11 Sec. 754.0174. CONTINUING EDUCATION FOR RENEWAL OF ELEVATOR  
12 INSPECTOR AND CONTRACTOR REGISTRATIONS.

13 SECTION 14. Section 754.0174, Health and Safety Code, is  
14 amended by adding Subsection (a-1) and amending Subsection (b) to  
15 read as follows:

16 (a-1) Each registered elevator inspector must complete  
17 continuing education requirements set by commission rule before the  
18 inspector may renew the inspector's registration.

19 (b) A provider of continuing education under this section  
20 must:

- 21 (1) register with the department; and  
22 (2) comply with rules adopted by the commission  
23 relating to continuing education for a registered elevator  
24 inspector or designated responsible party, as applicable.

25 SECTION 15. Section 754.018, Health and Safety Code, is  
26 amended to read as follows:

27 Sec. 754.018. POWERS OF MUNICIPALITIES. Subject to Section

1 754.014(h), if a municipality operates a program for the  
2 installation, maintenance, alteration, inspection, testing, or  
3 certification of equipment, this chapter [~~subchapter~~] shall not  
4 apply to the equipment in that municipality, provided that the  
5 standards of installation, maintenance, alteration, inspection,  
6 testing, and certification are at least equivalent to those  
7 contained in this chapter [~~subchapter~~].

8 SECTION 16. The heading to Section 754.019, Health and  
9 Safety Code, is amended to read as follows:

10 Sec. 754.019. DUTIES OF [~~REAL PROPERTY~~] OWNERS.

11 SECTION 17. Subsections (a), (b), and (e), Section 754.019,  
12 Health and Safety Code, are amended to read as follows:

13 (a) The owner [~~of real property on which equipment covered~~  
14 ~~by this subchapter is located~~] shall:

15 (1) have the equipment inspected annually by a  
16 registered elevator [~~certified~~] inspector;

17 (2) obtain an inspection report from the inspector  
18 evidencing that all equipment in a building on the real property was  
19 inspected in accordance with this chapter [~~subchapter~~] and rules  
20 adopted under this chapter [~~subchapter~~];

21 (3) file with the executive director each inspection  
22 report, and all applicable fees, not later than the 15th calendar  
23 [~~60th~~] day after the date on which an inspection is made under this  
24 chapter [~~subchapter~~];

25 (4) display the certificate of compliance for the  
26 equipment in a publicly visible area as defined by commission  
27 rule [+]

1                   ~~[(A) in a publicly visible area of the building,~~  
2 ~~as determined by commission rule under Section 754.016, if the~~  
3 ~~certificate relates to an elevator;~~

4                   ~~[(B) in the escalator box if the certificate~~  
5 ~~relates to an escalator; or~~

6                   ~~[(C) in a place designated by the executive~~  
7 ~~director if the certificate relates to equipment other than an~~  
8 ~~elevator or escalator]; and~~

9                   (5) maintain the equipment in compliance with the  
10 standards and codes adopted under commission rules ~~[display the~~  
11 ~~inspection report at the locations designated in Subdivision (4)~~  
12 ~~until a certificate of compliance is issued].~~

13               (b) When an inspection report is filed, the owner shall  
14 submit to the executive director, as applicable:

15                   (1) verification that any deficiencies in the  
16 registered elevator inspector's report have been remedied or that a  
17 bona fide contract to remedy the deficiencies has been entered  
18 into; or

19                   (2) any application for delay or waiver of an  
20 applicable standard.

21               (e) An owner shall report to the department each accident  
22 involving equipment not later than 24 ~~[72]~~ hours following the  
23 accident.

24               SECTION 18. Section 754.020, Health and Safety Code, is  
25 amended to read as follows:

26               Sec. 754.020. CHIEF ELEVATOR INSPECTOR. The executive  
27 director may appoint a chief elevator inspector to administer the

1 equipment inspection and registration program. The chief elevator  
2 inspector:

3 (1) may not have a financial or commercial interest in  
4 the manufacture, maintenance, repair, inspection, installation, or  
5 sale of equipment; and

6 (2) must possess the [~~a QEI-1~~] certification or obtain  
7 the certification required under Section 754.017 within six months  
8 after becoming chief elevator inspector.

9 SECTION 19. Section 754.021, Health and Safety Code, is  
10 amended to read as follows:

11 Sec. 754.021. LIST OF REGISTERED ELEVATOR INSPECTORS AND  
12 CONTRACTORS; PERSONNEL. The executive director shall:

13 (1) compile a list of elevator [~~certified~~] inspectors  
14 and contractors who are registered with the department; and

15 (2) employ personnel who are necessary to enforce this  
16 chapter [~~subchapter~~].

17 SECTION 20. Chapter 754, Health and Safety Code, is amended  
18 by adding Sections 754.0231, 754.0232, 754.0233, 754.0234, and  
19 754.0235 to read as follows:

20 Sec. 754.0231. INSPECTIONS AND INVESTIGATIONS.

21 (a) Except as provided by Subsection (b), the department may  
22 conduct an inspection or investigation of equipment regulated under  
23 this chapter in accordance with Chapter 51, Occupations Code. The  
24 department shall be granted access to any location in the building  
25 that is inaccessible to the public in order to conduct a full  
26 inspection or investigation of the equipment.

27 (b) If there is good cause for the executive director to

1 believe that equipment on the property poses an imminent and  
2 significant danger or that an accident involving equipment occurred  
3 on the property, the executive director or the executive director's  
4 designee may at any time enter the property to inspect the equipment  
5 or investigate the danger or accident. The executive director or  
6 the executive director's designee must be granted access to any  
7 location in the building that is inaccessible to the public in order  
8 to conduct a full inspection or investigation.

9 Sec. 754.0232. REGISTRATION PROCEEDINGS. (a) The  
10 commission or executive director may deny, suspend, or revoke a  
11 registration under this chapter and may assess an administrative  
12 penalty for:

13 (1) obtaining registration by fraud or false  
14 representation;

15 (2) falsifying a report submitted to the executive  
16 director; or

17 (3) violating this chapter or a rule adopted under  
18 this chapter.

19 (b) Proceedings for the denial, suspension, or revocation  
20 of a registration and appeals from these proceedings are governed  
21 by Chapter 2001, Government Code.

22 Sec. 754.0233. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The  
23 attorney general or the executive director may institute an action  
24 for injunctive relief to prevent or restrain a violation or  
25 threatened violation of this chapter or a rule adopted under this  
26 chapter.

27 (b) The attorney general or the executive director may

1 institute an action to collect a civil penalty from a person that  
2 appears to be violating or threatening to violate this chapter or a  
3 rule adopted under this chapter. A civil penalty assessed under  
4 this subsection may not exceed \$5,000 per day for each violation.

5 (c) An action filed under this section must be filed in a  
6 district court in Travis County.

7 (d) The attorney general and the department may recover  
8 reasonable expenses incurred in obtaining injunctive relief or  
9 civil penalties under this section, including court costs,  
10 reasonable attorney's fees, investigative costs, witness fees, and  
11 deposition expenses.

12 Sec. 754.0234. EMERGENCY ORDERS. (a) The executive  
13 director may issue an emergency order as necessary to enforce this  
14 chapter if the executive director determines that an emergency  
15 exists requiring immediate action to protect the public health and  
16 safety.

17 (b) The executive director shall issue an emergency order in  
18 accordance with Chapter 51, Occupations Code.

19 Sec. 754.0235. ORDERS TO DISCONNECT POWER TO OR LOCK OUT  
20 EQUIPMENT. (a) An emergency order issued in accordance with  
21 Section 754.0234 may also direct an owner to disconnect power to or  
22 lock out equipment if:

23 (1) the department determines imminent and  
24 significant danger to passenger or worker safety exists if action  
25 is not taken immediately; or

26 (2) an annual inspection has not been performed in  
27 more than two years.

1        (b) If an emergency order to disconnect power or lock out  
2 equipment is issued, the owner may have the power reconnected or the  
3 equipment unlocked only if a registered elevator inspector or  
4 contractor or a department representative verifies in writing to  
5 the department that the imminent and significant danger has been  
6 removed by repair, replacement, or other means.

7        (c) If an emergency order to disconnect power or lock out  
8 equipment is issued and the owner later notifies the department  
9 that the imminent and significant danger no longer exists, the  
10 executive director or the executive director's designee shall,  
11 after the requirements of Subsection (b) are satisfied, issue  
12 written permission to reconnect power or unlock the equipment and  
13 notify the owner.

14        SECTION 21. Section 754.025, Health and Safety Code, is  
15 amended to read as follows:

16        Sec. 754.025. APPLICATION OF CERTAIN LAW. [~~(a) Chapter~~  
17 ~~53, Occupations Code, applies to a registration under this~~  
18 ~~subchapter.~~

19        [~~(b)~~] Sections 51.401 and 51.404, Occupations Code, do not  
20 apply to this chapter, except those sections do apply to Sections  
21 754.017 and 754.0171 [~~subchapter~~].

22        SECTION 22. The following provisions of the Health and  
23 Safety Code are repealed:

- 24            (1) Subchapter A, Chapter 754;
- 25            (2) the heading to Subchapter B, Chapter 754;
- 26            (3) Subsection (i), Section 754.014;
- 27            (4) Subsections (d) and (e), Section 754.0171; and

1           (5) Sections 754.022, 754.023, and 754.024.

2           SECTION 23. (a) The Texas Commission of Licensing and  
3 Regulation shall adopt rules implementing Chapter 754, Health and  
4 Safety Code, as amended by this Act, not later than January 1, 2014.

5           (b) Subsection (b), Section 754.016 and Subdivision (3),  
6 Subsection (a), Section 754.019, Health and Safety Code, as amended  
7 by this Act, apply only to an inspection initiated on or after  
8 January 1, 2014.

9           (c) The repeal by this Act of Subchapter A, Chapter 754,  
10 Health and Safety Code, and Section 754.024, Health and Safety  
11 Code, does not apply to an offense committed under Section 754.003  
12 or 754.024, Health and Safety Code, before the effective date of the  
13 repeal. An offense committed before the effective date of the  
14 repeal is governed by Section 754.003 or 754.024, Health and Safety  
15 Code, as it existed on the date the offense was committed, and the  
16 former law is continued in effect for that purpose. For purposes of  
17 this section, an offense was committed before the effective date of  
18 the repeal if any element of the offense occurred before that date.

19           SECTION 24. This Act takes effect September 1, 2013.